

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Anthony L. Mann,

Plaintiff,

v.

SCDC; Sgt. Moore; Capt. McCullough;
Lt. Gregg; Sgt. Green; Sgt. Name Unknown at
Present; Capt. Rogers,

Defendants.

Case No. 0:19-cv-2589-SAL

ORDER

This matter is before the Court for review of the October 29, 2020 Report and Recommendation (“Report”) of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 89]. In the Report, the Magistrate Judge recommends the defendants’ motion for summary judgment, ECF No. 66, should be granted. [ECF No. 89]. The Magistrate Judge also recommends that Defendant Sgt. Name Unknown at Present, who has never been properly identified, should be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. *Id.* No party filed objections to this Report, and the time to do so has passed. [See ECF No. 89].

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the Court is not required to provide an explanation for

adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, defendants’ motion for summary judgment, ECF No. 66, is GRANTED. Plaintiff’s claims are DISMISSED WITHOUT PREJUDICE due to Plaintiff’s failure to exhaust his administrative remedies and the claims against Defendant Sgt. Name Unknown at Present are DISMISSED WITHOUT PREJUDICE pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

January 7, 2021
Florence, South Carolina

/s/Sherri A. Lydon
Sherri A. Lydon
United States District Judge